

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AMERISURE INSURANCE COMPANY,)

Plaintiff,)

v.)

LOWDER CONSTRUCTION)
COMPANY, INC. and COLONIAL)
REALTY LIMITED PARTNERSHIP,)
d/b/a COLONIAL PROPERTIES REALTY)
LIMITED PARTNERSHIP,)

Defendants.)

2006 DEC 11 A 10:21
DEB P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CIVIL ACTION NO.:

2:06-cv-1097-MHT

COMPLAINT FOR DECLARATORY RELIEF

PARTIES

1. Plaintiff, Amerisure Insurance Company ("Amerisure"), is a Michigan corporation which insured defendant, Lowder Construction Company, Inc. Amerisure's principal place of business is in Farmington Hills, Michigan.

2. Lowder Construction Company, Inc. ("Lowder") is an Alabama corporation with its principal place of business in Montgomery, Alabama.

3. Colonial Realty Limited Partnership, d/b/a Colonial Properties Realty Limited Partnership ("Colonial") is a Delaware corporation with its principal place of business in Birmingham, Alabama.

JURISDICTION

4. Jurisdiction is conferred by 28 U.S.C. § 1332 and 28 U.S.C. § 2201.

5. The relevant insurance policy was issued by Colonial Insurance Agency in Montgomery, Alabama, to Lowder Construction Company, Inc., also located in Montgomery, Alabama.

FACTS

6. On or about December 23, 1996, Lowder entered into a architectural contract with Charlan, Brock & Associates, Inc. ("Charlan") for the design and development of a 250 unit complex known as Cypress Crossing located in Orlando, Florida.

7. On or about July 9, 1997, Colonial executed a construction management contract with Lowder for the construction of the Cypress Crossing project.

8. On or about January 14, 1998, Lowder entered into a contract with Charlan for the design and development of a 448 unit apartment complex known as Colonial Village at Hunters Creek d/b/a Heather Glen located in Orlando, Florida.

9. On or about June 10, 1998, Colonial executed a construction management contract with Lowder for the construction of Heather Glen.

10. On or about September 9, 1998, Colonial executed a contract with Charlan for the design and development of a 300 unit apartment complex known as Colonial Grand at Liberty Park located in Vestavia Hills, Alabama.

11. On or about June 14, 1999, Colonial executed a construction management contract with Lowder for the construction of the Liberty Park project.

12. All three projects were completed a various time in 1999.

13. In the summer of 2003, water intrusion was discovered in the breezeway landings and below the landings at all three projects.

14. In the Cypress Crossing and Heather Glen projects, window leaks in areas not adjacent to the breezeways were also discovered.

15. As a result of these problems, Colonial filed suit against Lowder in the case of *Colonial Realty Limited Partnership d/b/a Colonial Properties Realty Limited Partnership v. Lowder Construction Co., and Charlan, Brock & Associates, Inc.*, Case No.:04-CA-10424 which is currently pending in the Orange County, Florida circuit court. (A copy of the lawsuit is attached as Exhibit 2).

INSURANCE

16. Lowder was insured by Amerisure Policy GL1322355 beginning on September 30, 2002 through September 30, 2003. A copy of the policy is attached as Exhibit 1.

17. Pursuant to the terms of the policy, Amerisure agreed to provide liability coverage for certain types of losses.

“SECTION I - COVERAGES
COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY.

1. **Insuring Agreement.**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” to which this insurance applies.

18. The policy contains several relevant definitions.

SECTION V - DEFINITIONS

13. “Occurrence” means an accident, including operations or repeated exposure to substantially the same general harmful conditions.

16. “Products-completed operations hazard”:

- a. Includes all “bodily injury” and “property damage” occurring away from the premises you own or rent and arising out of “your product” or “your work” except:
- (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, “your work” will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

- (c) When the part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project. Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

17. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
 - b. Loss of use of tangible property that is not physically injured. All such Loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

21. "Your work" means:
- a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.

LIMITATIONS AND EXCLUSIONS OF COVERAGE

19. The policy also contains several relevant limitations and exclusions of coverage.
- b. This insurance applies to "bodily injury" and "property damage" only if:
 - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
 - (2) The "bodily injury" or "property damage" occurs during the policy period.

2. Exclusions

This insurance does not apply to:

j. Damage to Property

- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored repaired or replaced because "your work" was incorrectly performed on it.

20. Endorsement CG 22 94 addresses coverage related to Lowder's "work." The Endorsement states:

Exclusion I. **Damage to Your Work** in the CG 00 01 10 01, has been modified by Endorsement CG 2294. **Exclusion - Damage to You're Work Performed by a**

Subcontractor. This endorsement, in relevant part:

Exclusion I. of Section I - Coverage A- Bodily Injury And Property Damage Liability is replaced by the following:

2. Exclusions

This insurance does not apply to:

1. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

21. The policy also contains an endorsement excluding claims for mold. Endorsement CG 21 67 04 02 specifically states:

We now refer you to **Endorsement CG 21 67 04 02, Fungi or Bacteria Exclusion**, attached to your GL2009278, effective 05/01/04-01/01/06 which provides, in relevant part:

"FUNGI OR BACTERIA EXCLUSION"

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. The following is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability:

2. Exclusions

This insurance does not apply to:

FUNGI OR BACTERIA

- a. "Bodily injury", "property damage" which would not have occurred in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, "fungi" or bacteria, by any insured or by any other person or entity."

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

22. The policy excludes coverage for claims related to certain professional services provided by Lowder, or on Lowder's behalf. The policy states:

We now direct you to the **Contractors Professional Liability Exclusion**, excerpts which follow:

A. **SECTION I - COVERAGES** is amended as follows:

2. The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability and Paragraph 2., Exclusions of Section I - Coverage B- Personal and Advertising Injury Liability:**

1. This insurance does not apply to "bodily injury", "property damage" or personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations.

- a. Providing engineering, architectural or surveying services to other in your capacity as an engineer, architect or surveyor: and
 - b. Providing, or hiring independent professionals to provide, engineering, architectural or surveying service in connection with construction work you perform.
2. Subject to Paragraph 3. below, professional services include:
- a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports surveys, field orders, change orders, or drawings and specifications: and
 - b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
 - c. Professional services do not include services within construction, means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

PRAYER FOR RELIEF

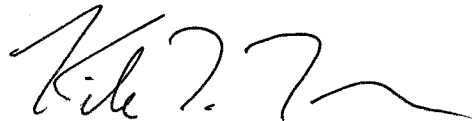
WHEREFORE, PREMISES CONSIDERED, plaintiff asks this Honorable Court for judgment declaring that it owes Lowder Construction Company no duty to defend from any lawsuits arising from the Heather Glen Project, Cypress Crossing Project or the Colonial Grand at Liberty Park Project, and in addition, Amerisure has no duty to indemnify Lowder Construction Company for any sums that Lowder becomes obligated to pay as a result of lawsuits damages as a result of the Cypress Crossing, Heather Glen and Colonial Grand at Liberty Park projects. Specifically, Amerisure asks this Honorable Court for a judgment declaring:

1. There has been no occurrence under the unambiguous terms and definitions of the insurance contract that would trigger coverage under the policy;

2. If there was in fact an occurrence, the relevant portions and definitions of this policy unambiguously exclude coverage for damage to Lowder's work, and work performed on Lowder's behalf, therefore, Amerisure has no obligation to defend and/or indemnify Lowder for claims of property damage to their work;

3. The unambiguous language of this insurance policy excludes coverage for claims relating to professional services provided by Lowder or on Lowder's behalf, including, but not limited to architectural services, and therefore, Amerisure has no duty to defend and/or indemnify Lowder for such claims;

4. Reimbursement of attorneys fees and costs against Lowder for its defense for claims that are determined to not be covered.



Kile T. Turner - ASB-8182-U83K
Attorney for Plaintiff,
Amerisure Insurance Company

Of Counsel:

NORMAN, WOOD, KENDRICK & TURNER
Financial Center – Suite 1600
505 20th Street North
Birmingham, Alabama 35203
Phone: (205) 328-6643
Direct Line: (205) 259-1033
Fax: (205) 251-5479
Email: kturner@nwkt.com

Addresses of All Parties:

Plaintiff:

140 Fountain Parkway – Suite 200
St. Petersburg, Florida 33716-8530

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL

Defendants:

Lowder Construction Company, Inc.
2000 Interstate Park Drive
Montgomery, Alabama 36109

Colonial Realty Limited Partnership
d/b/a Colonial Properties Realty Limited Partnership
2101 6th Avenue North
Suite 750
Birmingham, Alabama 35203

“EXHIBIT 1”

COMMON POLICY DECLARATIONS

AMERISURE INSURANCE COMPANY

POLICY NUMBER: GL 1322355030002
 GROUP NUMBER : 51D
 ACCOUNT NUMBER: 11154421

NAMED INSURED: LOWDER CONSTRUCTION COMPANY, INC.

MAILING ADDRESS:
 2000 INTERSTATE PARK DRIVE

MONTGOMERY AL 36109

SERVICE OFFICES:

FIRST YEAR: 1999

PREMIUM AMOUNT DUE: \$ 167,803.00

RENEWAL OF: GL 1322355020001

PRODUCER NUMBER: 835476 - 130

PRODUCER NAME AND ADDRESS:

COLONIAL INS AGCY INC

P O BOX 231449

MONTGOMERY

AL 36123

POLICY PERIOD: FROM 09/30/2002 TO 09/30/2003 AT 12:01 A.M. STANDARD TIME
 AT YOUR MAILING ADDRESS SHOWN ABOVE. DATE ISSUED: 10/18/2002

"THIS IS A TRUE CERTIFIED COPY OF POLICY # GL 1322355030002 EFFECTIVE 09/30/2002
 BY Susan Bell OF AMERISURE COMPANIES"

NAMED INSURED'S BUSINESS: GENERAL CONTRACTOR

FORM OF BUSINESS: CORPORATION

AUDIT PERIOD: ANNUAL

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THE
 POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A
 PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
BOILER AND MACHINERY COVERAGE PART	\$ 0.00
COMMERCIAL AUTO COVERAGE PART	\$ 0.00
COMMERCIAL CRIME COVERAGE PART	\$ 0.00
COMMERCIAL GENERAL LIABILITY COVERAGE PART	\$ 167,803.00
COMMERCIAL INLAND MARINE COVERAGE PART	\$ 0.00
COMMERCIAL PROPERTY COVERAGE PART	\$ 0.00
STATE TAX	\$
MUNICIPAL SURCHARGE	\$
NEW YORK FIRE FEE	\$
TOTAL	\$ 167,803.00

FORMS APPLICABLE TO ALL COVERAGE PARTS:

GROUP NAME: ABC OF ALABAMA - CENTRAL

COUNTERSIGNED

(DATE)

BY

(AUTHORIZED REPRESENTATIVE)



IMPORTANT NOTICE - PREMIUM CALCULATIONS

There are provisions in your policy to charge premium for the work of subcontractors performed on your behalf.

Because you may be held liable for the actions of subcontractors, it is important that you ensure that subcontractors maintain insurance; Commercial Auto, Workers' Compensation and General Liability, by securing Certificates of Insurance prior to beginning work.

If evidence of adequate insurance for subcontractors is not maintained, we may charge additional premiums, just as if the work were performed by you.

General Liability Insurance for subcontractors will be considered adequate to avoid additional charges, if the coverages are the same as those provided for you in the attached policy for the "Products and Completed Operations" and for the "xc and u" coverage. In addition, the Limits of Liability coverage must be the same as provided in the attached policy, or \$500,000 per occurrence, whichever is lower. The business you hire, other than subcontractors, must have the same limits of liability as provided in the attached policy or \$300,000 per occurrence, whichever is lower.

Should you have any questions, please contact your AGENT or AUDITOR.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

AMERISURE MUTUAL INSURANCE COMPANY

26777 Halsted Road, Farmington Hills, MI 48331-3586
Phone 1-800-257-1900

ASSIGNMENT

Assignment of this policy is valid only with the written consent of this Company.

POLICY CONTENT

This policy is made and accepted subject to the foregoing provisions and stipulations and those which follow. These provisions, in addition to those added by amendment or endorsement are a part of this policy.

This policy consists of the Common Policy Declarations, Coverage Parts and endorsements listed in that Declarations form. In return for the payment of the premium, the Company agrees with the Named Insured to provide the insurance afforded by a Coverage Part forming part of this policy.

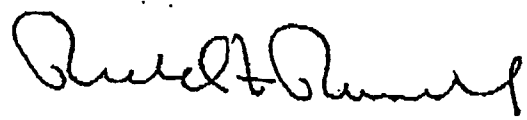
MUTUAL POLICY CONDITIONS

This policy is non-assessable. You are a member of the Company. Members participate in the distribution of dividends to the extent and upon the conditions fixed and determined by the Board of Directors. Such distribution will be made in accordance with the law.

IN WITNESS WHEREOF, the Company has executed and attested to these provisions. This policy is not valid unless countersigned on the Declarations page by our authorized representative.

The insured is notified that by virtue of this policy, he/she is a member of the Amerisure Mutual Insurance Company of Farmington Hills, Michigan. Members are entitled to vote either in person or by proxy at Company meetings. Annual meetings are held on the second Thursday of May of each year at 10:30 A.M. at the Home Office in Farmington Hills, MI or at such other place in the City of Farmington Hills, to which the members may adjourn such meeting.


Secretary


President

THIS POLICY CONSISTS OF:

- DECLARATIONS
- COMMON POLICY CONDITIONS
- TWO OR MORE COVERAGE PARTS

THE COMMERCIAL PROPERTY COVERAGE PART CONSISTS OF:

- DECLARATIONS
- ONE OR MORE COVERAGE FORMS
- CONDITIONS
- ONE OR MORE CAUSE OF LOSS FORMS
- APPLICABLE ENDORSEMENTS

THE COMMERCIAL GENERAL LIABILITY COVERAGE PART CONSISTS OF:

- DECLARATIONS
- COVERAGE FORM
- APPLICABLE ENDORSEMENTS

THE COMMERCIAL INLAND MARINE COVERAGE PART CONSISTS OF:

- DECLARATIONS
- CONDITIONS
- ONE OR MORE COVERAGE FORMS
- APPLICABLE ENDORSEMENTS

THE COMMERCIAL CRIME COVERAGE PART CONSISTS OF:

- DECLARATIONS
- GENERAL PROVISIONS
- ONE OR MORE COVERAGE FORMS
- APPLICABLE ENDORSEMENTS

THE COMMERCIAL AUTOMOBILE COVERAGE PART CONSISTS OF:

- DECLARATIONS
- ONE OR MORE COVERAGE FORMS
- APPLICABLE ENDORSEMENTS

POLICY NUMBER: GL 1322355030002

EFFECTIVE DATE: 09/30/2002

NAMED INSURED

LOWDER CONSTRUCTION COMPANY, INC.

LIMITS OF INSURANCE

GENERAL AGGREGATE LIMIT (OTHER THAN PRODUCTS-COMPLETED OPERATIONS)	2,000,000
PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT	2,000,000
PERSONAL & ADVERTISING INJURY LIMIT	1,000,000
EACH OCCURRENCE LIMIT	1,000,000
DAMAGE TO PREMISES RENTED TO YOU LIMIT	100,000
MEDICAL EXPENSE LIMIT	5,000 ANY ONE PERSON

LOCATION OF ALL PREMISES YOU OWN, RENT OR OCCUPY

FOR DESCRIPTIONS OF THE INSURED PREMISES, PLEASE REFER TO THE ATTACHED SCHEDULES.

CLASSIFICATIONS

ALL APPLICABLE CLASSIFICATIONS MAY BE FOUND IN THE ATTACHED SCHEDULES.

FORMS APPLICABLE

EN DT A	IL 70 11 05 96	M 10 89 01 97	CG 22 79 07 98
CG 70 74 12 97	CG 71 03 07 99	CG 71 06 10 99	CG 22 94 10 01
CG 21 67 04 02	CG 70 42 04 95	IL 00 17 11 98	CG 21 47 07 98
M 10 74 01 93	CG 21 34 01 87	CG 70 71 09 99	CG 71 16 01 01
AN 10 14 01 01	IL 70 27 07 01	CG 70 48 04 02	CG 70 49 04 02
CG 71 17 01 01	IL 00 21 07 02	AN 10 69 04 02	AN 10 66 04 02
CG 00 01 10 01			

GENERAL LIABILITY

INSURING COMPANY

POLICY NUMBER

GL 1322355030002

AMERISURE

NAMED INSURED

PRODUCER 835476

LOWDER CONSTRUCTION COMPANY,
INC.

COLONIAL INS AGCY INC

2000 INTERSTATE PARK DRIVE

P O BOX 231449

MONTGOMERY

AL 36109

MONTGOMERY

AL 36123

TERM EFF DATE

09/30/2002

TERM EXP DATE

09/30/2003

FORM NUMBER	FORM NAME	FILL IN (R/O/N)
EN DT A	MANUSCRIPT ENDORSEMENT	R
IL 70 11 05 96	AMENDMENT OF CANC PROVISIONS (CAP)	N
M 10 89 01 97	AMERISURE JACKET ENDORSEMENT	N
CG 22 79 07 98	EXCL-CONTRACTORS-PROF. LIABILITY	N
CG 70 74 12 97	EXCL-OPERATIONS INCL/CONSOLIDATED INS.	R
CG 71 03 07 99	TOTAL POLLUTION EXCLUSION	N
CG 71 06 10 99	NOTICE AND TENDER	N
CG 22 94 10 01	EXCL-DMG TO WORK PERF BY SUBCONTRACTOR	N
CG 21 67 04 02	FUNGI OR BACTERIA EXCL. (GL COVERAGE)	N
CG 70 42 04 95	ASBESTOS EXCLUSION ENDORSEMENT	N
IL 00 17 11 98	COMMON POLICY CONDITIONS	N
CG 21 47 07 98	EMPLOYMENT RELATED PRACTICES EXCL.	N
M 10 74 01 93	CGL QUICK REFERENCE	N
CG 21 34 01 87	DESIGNATED WORK	O
CG 70 71 09 99	EXCESS INS COND-ADDL INS OTHER INS	N
CG 71 16 01 01	AMENDATORY ENDORSEMENT	N
AN 10 14 01 01	COMMERCIAL GENERAL LIABILITY ENDT	N
IL 70 27 07 01	PRIVACY PROTECTION CONDITION	N
CG 70 48 04 02	CGL BLANKET ADDITIONAL INSURED	N
CG 70 49 04 02	CGL EXTENSION ENDORSEMENT	N
CG 71 17 01 01	LEAD POISONING/CONTAMINATION	N
IL 00 21 07 02	NUCLEAR ENERGY LIAB EXCL (BROAD FORM)	N
AN 10 69 04 02	NOTICE TO POLICYHOLDERS	N
AN 10 66 04 02	NOTICE TO POLICYHOLDERS	N
CG 00 01 10 01	COMM'L. GEN'L. LIABILITY COVERAGE FORM	N

**COMMERCIAL GENERAL LIABILITY
SCHEDULE OF COVERED PREMISES**

POLICY NUMBER

GL 1322355030002

NAMED INSUREDLOWDER CONSTRUCTION COMPANY,
INC.

PREM NO BLDG NO LOCATION
00001 001 2000 INTERSTATE PARK DRIVE
MONTGOMERY AL 36109

CLASSIFICATION

CODE DESCRIPTION
15250 CONTRACTING - (MED) COMPOSITE RATED
PREM/OPS & PRODUCTS AND COMP/OPS COVGE

EXPOSURE PREMIUM
BASE BASIS
~~PAYROLL~~ PER 1000
Gross Sales

EXPOSURE
~~66,000,000~~ 26,875,000

COMPOSITE

RATE PREMIUM
1.134 ~~74,844.00~~

CLASSIFICATION

CODE DESCRIPTION
44444 FELLOW EMPLOYEE

EXPOSURE PREMIUM
BASE BASIS
NO EXPOSURE (SEE BASE CLASS)

EXPOSURE
0

PREMISES/OPERATIONS RATE PREMIUM
1.000 0.00

CLASSIFICATION

CODE DESCRIPTION
49950 ADDITIONAL INTERESTS

PREMISES/OPERATIONS RATE PREMIUM
1.571 0.00

COMMERCIAL GENERAL LIABILITY
SCHEDULE OF COVERED PREMISES

POLICY NUMBER

GL 1322355030002

NAMED INSURED

LOWDER CONSTRUCTION COMPANY,
INC.

CLASSIFICATION

CODE	DESCRIPTION
94444	CONTRACTORS NOC CGL EXTENSION ENDORSEMENT

EXPOSURE	PREMIUM	EXPOSURE
BASE	BASIS	
PAYROLL	PER 1000	0

	RATE	PREMIUM
PREMISES/OPERATIONS	1.571	0.00

CLASSIFICATION

CODE	DESCRIPTION
98550	NOC AND/OR A-RATED (MED) COMPOSITE RATED PREM/OPS & PRODUCTS AND COMP/OPS COVGE

EXPOSURE	PREMIUM	EXPOSURE
BASE	BASIS	
PAYROLL	PER 1000	1,388,426 1,150,000

	RATE	PREMIUM
COMPOSITE	66.953	92,959.00

TOTAL COVERAGE PART PREMIUM	\$ 167,803.00
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

It is agreed that this policy is hereby amended as indicated. All other terms and conditions of this policy remain unchanged.

EMPLOYEE BODILY INJURY TO A CO-EMPLOYEE

With respect to your "employees" who occupy the positions designated under "Covered Positions" below, Section II-Who is an insured is amended as follows:

Paragraph 2.a (1) is amended to read:

- (1) "Bodily injury" or "personal injury" to you while in the course of his or her employment or while performing duties related to the conduct of your business;

Paragraph 3.a is deleted.

COVERED POSITIONS:

FOREMEN, SUPERVISORS & ABOVE

The Each Occurrence Limit shown in the Declarations is hereby reduced to the Each Occurrence Limit stated below for damages including costs of investigation, defense and other Supplementary Payments to which this endorsement applies.

\$1,000,000. Each Occurrence

ENDORSEMENT: A
POLICY NUMBER: GL-1322355030002

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - DESIGNATED WORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

SCHEDULE

***Description of your work:**

1. The design, manufacture, construction, fabrication, preparation, installation, application, maintenance or repair, including remodeling, service, correction, or replacement, of an "exterior insulation and finish system" (commonly referred to as synthetic stucco) or any part thereof, including the application or use of conditioners, primers, accessories, doors, windows, roofing, fascia, soffit, gutters, flashings, coatings, caulking or sealants in connection with such system.
2. Any work or operations with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system" is used on any part of that structure and such work or operations are part of or affect such system in any way.

This exclusion applies to "your work" described in Paragraph 1 or Paragraph 2 above performed by you or buy others on your behalf. This exclusion does not apply to the application of a wet cement, lime and sand exterior finish mixture commonly referred to as "stucco".

For the purposes of this endorsement, an "exterior finish and insulation system" means an exterior cladding or finishing system used on any part of any structure, and consisting of:

- a. A rigid or semi-rigid insulation board made of expanded polystyrene or other materials, and
- b. the adhesive and/or mechanical fasteners used to attach the insulation board to the substrate, and
- c. a reinforced base coat, and
- d. a finish coat providing surface texture and color.

This insurance does not apply to "bodily injury" or "property damage" included in the "products completed operations hazard" and arising out of "your work" shown in the Schedule.

***THIS EXCLUSION DOES NOT APPLY TO APPLICATION OF MAGNA WALL FIBER REINFORCED STUCCO SYSTEM OR STO STUCCO SYSTEMS WHEN APPLIED OVER ORIENTED STRAND BOARD, GYPSUM SHEATHING OR PLYWOOD.**

CG 21 34 01-87

POLICY NUMBER: GL-1322355030002

COMMERCIAL GENERAL LIABILITY
CG 03 00 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE**

Coverage	Amount and Basis of Deductible		
	PER CLAIM	or	PER OCCURRENCE
Bodily Injury Liability OR	\$		\$
Property Damage Liability OR	\$*500.		\$
Bodily Injury Liability and/or Property Damage Liability Combined	\$		\$

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):-***APPLIES TO ALL PAINTING OPERATIONS PERFORMED BY AND/OR FOR THE INSURED EITHER BY INSUREDS' EMPLOYEES OR REPRESENTATIVES, OR BY SUBCONTRACTORS.**

- A.** Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages.
- B.** You may select a deductible amount on either a per claim or a per "occurrence" basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the Schedule above. The deductible amount stated in the Schedule above applies as follows:
- 1. PER CLAIM BASIS.** If the deductible amount indicated in the Schedule above is on a per claim basis, that deductible applies as follows:
 - a.** Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";
 - b.** Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or
 - c.** Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:
 - (1)** "Bodily injury";
 - (2)** "Property damage"; or
 - (3)** "Bodily injury" and "property damage" combined
- as the result of any one "occurrence".
- If damages are claimed for care, loss of services or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.
- With respect to "property damage", person includes an organization.

2. PER OCCURRENCE BASIS. If the deductible amount indicated in the Schedule above is on a "per occurrence" basis, that deductible amount applies as follows:

- a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c. Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages because of:
 - (1) "Bodily injury";
 - (2) "Property damage"; or
 - (3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

C. The terms of this insurance, including those with respect to:

- 1. Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2. Your duties in the event of an "occurrence", claim, or "suit"

apply irrespective of the application of the deductible amount.

D. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for or such part of the deductible amount as has been paid by us.

**THIS ENDORSEMENT AMENDS YOUR POLICY. PLEASE READ IT CAREFULLY.
ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED**

AMENDMENT OF CANCELLATION PROVISION

This endorsement modifies the insurance provided under the following:

COMMON POLICY CONDITIONS

Item 2. of **A. CANCELLATION** is deleted and replaced with the following:

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 60 days before the effective date of cancellation if we cancel for any other reason.

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IL 70 11 05 96

AMERISURE INSURANCE COMPANY
26777 Halsted Road, Farmington Hills, Michigan 48333-2060
Phone 1-800-257-1900

ASSIGNMENT

Assignment of this policy shall not be valid except with the written consent of this Company.

POLICY CONTENT

This policy is made and accepted subject to the foregoing provisions and stipulations and those which follow. These provisions, in addition to those added by amendment or endorsement are a part of this policy.

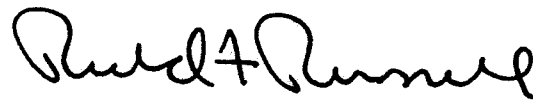
This policy consists of the Common Policy Declarations, Coverage Parts and endorsements listed in that Declarations form. In return for payment of the premium, the Company agrees with the Named Insured to provide the insurance afforded by a Coverage Part forming part of this policy.

PARTICIPATION

You participate, in the distribution of any unabsorbed premiums, savings or dividends, to the extent and upon the conditions fixed and determined by the Board of Directors of the Company in accordance with the provisions of law.

IN WITNESS WHEREOF, the Company has executed and attested to these provisions. This policy is not valid unless countersigned on the Declarations page by our authorized representative.


Secretary


President

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CONTRACTORS – PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
 - a. Providing engineering, architectural or surveying services to others in your capacity as an engineer, architect or surveyor; and
 - b. Providing, or hiring independent professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.
2. Subject to Paragraph 3. below, professional services include:
 - a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
 - b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
3. Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

EXCLUSION - OPERATIONS INCLUDED WITHIN A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following exclusion is added to paragraph 2., **Exclusions of COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** (Section I - Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" if such operations were at any time included within a consolidated (wrap-up or owner, project manager, or contractor controlled) insurance program for a construction project in which you are or were involved unless specifically scheduled below.

This exclusion applies whether or not the consolidated insurance program provides or provided:

- (1) Coverage identical to that provided by this Coverage Part;
- (2) Limits adequate to cover all claims; or
- (3) Coverage which remains in effect.

This exclusion applies regardless of whether such operations are or were conducted by you or on your behalf or whether the operations are or were conducted for yourself or for others.

This exclusion does not apply to your operations away from such wrap-up project site incidental to the support of such a project and not included within the consolidated insurance program.

SCHEDULE

Description and Location of Operation(s) not subject to this exclusion:

(If no entry appears above, there are no exceptions to this exclusion.)

For the purpose of this endorsement, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

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CG 70 74 12 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**TOTAL POLLUTION EXCLUSION
WITH A BUILDING HEATING EQUIPMENT EXCEPTION, HOSTILE FIRE
EXCEPTION AND CONTRACTOR JOB SITE EXCEPTION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

Exclusion f. under Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

f. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

This exclusion does not apply to:

- (a) "Bodily injury" if sustained within a building which is or was at any time owned or occupied by, or rented or loaned to, any insured and caused by smoke, fumes, vapor or soot from equipment used to heat that building.
 - (b) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:
 - (i) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment or waste; or
 - (ii) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".
 - (c) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor.
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

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CG 71 03 07 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF COMMERCIAL
GENERAL LIABILITY CONDITIONS
NOTICE AND TENDER TO OTHER INSURERS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, the following is added to paragraph 2.c. of **Duties In The Event Of Occurrence, Offense, Claim Or Suit**:

- (5) Promptly give notice of an "occurrence" or offense which may result in a claim, a claim which is made or "suit" to any other insurer which has available insurance for a loss we cover under **Coverages A or B** of this coverage part.
- (6) Promptly tender the defense of any claim made or "suit" to any other insurer which also has available insurance for a loss which we cover under **Coverage A or B** of this coverage part.

COMMERCIAL GENERAL LIABILITY
CG 22 94 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – DAMAGE TO WORK PERFORMED BY
SUBCONTRACTORS ON YOUR BEHALF**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion I. of **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

I. Damage To Your Work

“Property damage” to “your work” arising out of it or any part of it and included in the “products-completed operations hazard”.

**COMMERCIAL GENERAL LIABILITY
CG 21 67 12 04**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

- B. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

- C. The following definition is added to the Definitions Section:**

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASBESTOS EXCLUSION

It is agreed that this insurance does not apply to any "bodily Injury", "Property Damage", or "Personal Injury" arising out of:

1. Inhaling, ingesting or physical exposure to asbestos or goods or products containing asbestos; or
2. The use of asbestos in constructing or manufacturing any good, product or structure; or
3. The removal of asbestos from any good, product or structure; or
4. The manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos.

The coverage afforded by this policy does not apply to payment for the investigation or defense of any loss, injury or damage or any cost, fine or penalty or for any expense or claim or suit related to any of the above.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**COMMERCIAL GENERAL LIABILITY
CG 21 47 07 98**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**QUICK REFERENCE
COMMERCIAL GENERAL LIABILITY COVERAGE PART
READ YOUR POLICY CAREFULLY**

The Commercial General Liability Coverage Part in your policy consists of Declarations, a Coverage Form (CG 00 01), Common Policy Conditions and Endorsements, if applicable. Following is a Quick Reference indexing of the principal provisions contained in each of the components making up the Coverage Part, listed in sequential order, except for the provisions in the Declarations which may not be in the sequence shown.

DECLARATIONS

- Named Insured and Mailing Address
- Policy Period
- Description of Business and Location of Premises
- Limits of Insurance
- Forms and Endorsements applying to the Coverage Part at time of issue

COVERAGE FORM (CG 00 01)

SECTION I - COVERAGES

- Coverage A - Bodily Injury and Property Damage Liability
 - Insuring Agreement
 - Exclusions
- Coverage B - Personal and Advertising Injury Liability
 - Insuring Agreement
 - Exclusions
- Coverage C - Medical Payments
 - Insuring Agreement
 - Exclusions
- Supplementary Payments

SECTION II - WHO IS AN INSURED

SECTION III - LIMITS OF INSURANCE

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

- Bankruptcy
- Duties in the Event of Occurrence, Claim of Suit
- Legal Action Against Us
- Other Insurance
- Premium Audit
- Representations
- Separation of Insureds
- Transfer of Rights of Recovery Against Others to Us

SECTION V - DEFINITIONS

COMMON POLICY CONDITIONS (II 00 17)

- Cancellation
- Changes
- Examination of Your Books and Records
- Inspections and Surveys
- Premiums
- Transfer of Your Rights and Duties under this Policy

ENDORSEMENTS (If Any)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCESS INSURANCE CONDITION - WHEN YOU ARE AN INSURED ON
OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

Paragraph 4.b. of the Other Insurance Condition - (Section IV - Commercial General Liability Conditions) is deleted and replaced by the following:

4. Other Insurance

b. Excess Insurance

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk, or similar coverage for "your work;"
- (2) That is Fire Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (3) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;
- (4) If the loss arises out of the maintenance or use of aircraft, "autos", or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability; or
- (5) That is valid and collectible insurance available to you as an insured under any other policy.

When this insurance is excess, we will have no duty under Coverages A or B to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

- I. Under **SECTION IV, 5. Premium Audit**, item **b.** is deleted and replaced with the following:
 5. **Premium Audit**
 - b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured, as stated in an invoice for premium, but in no event later than 120 days after policy expiration. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

CG 71 16 01 01

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ADVISORY NOTICE TO POLICYHOLDERS

This is a summary of a major change in your Commercial Policy. The notice is provided below. No notice is provided by this summary nor can it be construed to replace any provision of your policy. You should read your policy and review your declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this summary, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

This clarification is intended to help you understand where coverage has been clarified, reduced or broadened.

ALL COMMERCIAL GENERAL LIABILITY COVERAGE FORMS
NEW MANDATORY GENERAL LIABILITY ENDORSEMENT - CG 71 16 01 01

I. CLARIFICATION OR PROCEDURAL CHANGE

CG 71 16 01 01 - Amendatory Endorsement for use with the Commercial General Liability Coverage Form under **SECTION IV 5. Premium Audit**, item **b.** has been revised to clarify when audit premiums are due and payable.

AN 10 14 01 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIVACY PROTECTION CONDITION

This endorsement modifies the following:

COMMON POLICY CONDITIONS

The **COMMON POLICY CONDITIONS** is modified to include the following additional Condition:

Privacy Protection

- a. This policy provides that you will report claims to us as soon as practicable and will cooperate with us in the investigation and settlement of claims. To enable you to assist us in the claim handling process we, or our independent agent, may share certain information with you. This information may be Confidential Information. Confidential Information means non-public personal information. This information will be shared solely for the purpose of helping to effect, administer or enforce rights and benefits payable or recoverable under this policy.
- b. You agree to use such Confidential Information solely to perform the services and obligations required under this policy. You will not use Confidential Information for any other purpose. You will use information shared to:
 - (1) work with us to develop settlement or litigation strategies on your behalf.
 - (2) detect and investigate any suspected fraud.
 - (3) support our safety, loss prevention, and case management programs. Case management includes utilization review, disability management, return to work, and light duty programs.
 - (4) check your premium charges and billings for accuracy.
 - (5) monitor our claim handling practices for quality assurance, quality improvement and performance evaluation purposes.
 - (6) report to us any information that may contribute to the fair and final resolution of all claims.

You specifically agree not to use any Confidential Information to market your products or services. You will also not use Confidential Information to make personnel or employment related decisions.
- c. You agree to protect the privacy of Confidential Information. You will not share Confidential Information, either directly or indirectly with any third party, except as may be allowed by law. You will share Confidential Information only with your employees who have a need for such information to perform their duties under this policy. If you need to disclose any Confidential Information to a third party in order to perform your duties under this policy, you will first get our written consent. You will then enter into a confidentiality agreement with such third party. Under that confidentiality agreement such third party must be restricted from disclosing, using or copying Confidential Information, except as consistent with this policy.

Nothing in this endorsement shall affect the coverage provided by this policy. Provided, however, if permitted by law, we may cancel your policy in the event you use or disclose Confidential Information other than as provided in this endorsement or permitted by law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTOR'S BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

SECTION II - WHO IS AN INSURED is amended to include as an insured any person or organization, called an additional insured in this endorsement:

1. Whom you are required to add as an additional insured on this policy under a written contract or agreement relating to your business; or
2. Who is named as an additional insured under this policy on a certificate of insurance; however
3. The written contract, agreement or certificate of insurance must be:
 - (a) currently in effect or become effective during the term of this policy; and
 - (b) executed prior to the "bodily injury", "property damage", personal injury", or "advertising injury" giving rise to a claim under this policy; however, if "your work" was commenced under a letter of intent or work order, subject to a subsequent reduction to writing within 30 days from such commencement and with customers whose customary contracts require they be named as additional insureds, we will provide additional insured status as specified in this endorsement.
4. If the additional insured is:
 - (a) An individual, their spouse is also an additional insured.
 - (b) A partnership or joint venture, members, partners, and their spouses are also additional insureds.
 - (c) A limited liability company, members and managers are also additional insureds.
 - (d) An organization other than a partnership, joint venture or limited liability company, executive officers and directors of the organization are also additional insureds. Stockholders are also additional insureds, but only with respect to their liability as stockholders.
 - (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

The insurance provided to the additional insured is limited as follows:

1. That person or organization is only an additional insured with respect to liability arising out of:
 - (a) Premises you own, rent, lease, or occupy, or
 - (b) "Your work" for that additional insured.

Premises, as respects this provision, shall include common or public areas about such premises if so required in the written contract or agreement.

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2. The limits of insurance applicable to the additional insured are the least of those specified in the written contract or agreement, or in the certificate of insurance or in the Declarations for this policy. If you also carry an Umbrella policy, and the written contract or agreement or certificate of insurance requires that the additional insured status also apply to such Umbrella policy, the limits of insurance applicable to the additional insured under this policy shall be those specified in the Declarations of this policy. The limits of insurance applicable to the additional insured are inclusive of and not in addition to the limits of insurance shown in the Declarations.

The insurance provided to the additional insured does not apply to "bodily injury", "property damage", "personal injury", or "advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including but not limited to:

1. The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, design specifications; and
2. Supervisory, inspection, or engineering services.

Any coverage provided in this endorsement is excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent, or on any other basis unless the written contract, agreement, or certificate of insurance requires that this insurance be primary, in which case this insurance will be primary without contribution from such other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Under **SECTION I - COVERAGE A., ITEM 2. EXCLUSIONS**, provisions 1. through 5. of this endorsement amend the policy as follows:

1. LIQUOR LIABILITY

Exclusion c. is deleted.

2. NONOWNED WATERCRAFT

Exclusion g., subparagraph (2) is deleted and replaced with the following:

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons or property for a charge.

3. PREMISES ALIENATED

A. Exclusion j. subparagraph (2) is deleted.

B. The following paragraph is deleted from Exclusion j.:

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

4. PROPERTY DAMAGE LIABILITY - ELEVATORS AND SIDETRACK AGREEMENTS

A. Exclusion j. paragraphs (3), (4), and (6) do not apply to the use of elevators.

B. Exclusion k. does not apply to:

1. The use of elevators; or

2. Liability assumed under a sidetrack agreement.

5. PROPERTY DAMAGE LIABILITY - BORROWED EQUIPMENT

A. Exclusion j., Item (4) does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

B. With respect to any one borrowed equipment item, Paragraph A. above does not apply to "property damage" which exceeds \$25,000.

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The insurance afforded by reason of provisions 1. through 5. of this endorsement is excess over any valid and collectible insurance (including any deductible) available to the insured whether primary, excess or contingent, and **SECTION IV. OTHER INSURANCE, CONDITION 4.** is changed accordingly.

6. CONTRACTUAL LIABILITY - PERSONAL AND ADVERTISING INJURY

Under **SECTION 1 - COVERAGE B., ITEM 2 - Exclusions**, paragraph e. is deleted.

7. SUPPLEMENTARY PAYMENTS

Under **SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**, Item 1.b. is deleted and replaced with the following:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

8. BROADENED WHO IS AN INSURED

SECTION II - WHO IS AN INSURED is deleted and replaced with the following:

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees," other than either your "executive officers," (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insured for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of paragraph (1) (a) above;

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- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services except as provided in Provision 9. of this endorsement.
- (2) "Property damage" to property:
 - (a) Owned, occupied or used by;
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by
 - you, any of your "employees," "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only;
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Form.
- e. Your subsidiaries if:
 - (1) They are legally incorporated entities; and
 - (2) You own more than 50% of the voting stock in such subsidiaries as of the effective date of this policy.

If such subsidiaries are not shown in the Declarations, you must report them to us within 180 days of the inception of your original policy.
- f. Any person or organization other than an architect, engineer, or surveyor, which requires in a "work contract" that such person or organization be made an insured under this policy. However, such person or organization shall be an insured only with respect to covered "bodily injury," "property damage," and "personal and advertising injury" which results from "your work" under that "work contract."
- The coverage afforded to such people or organization will continue only for a period of thirty (30) days after the effective date of the applicable "work contract" or, until the end of the policy term, whichever is earlier. However, if you report to us within the period the name of the person or organization, as well as the nature of the "work contract" involved, the coverage afforded under this Coverage Form to such people or organization shall continue until the expiration of this policy.
- g. Any person or organization to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to liability arising out of the maintenance or use of that part of any premises leased to you.
- However, no such person or organization is an insured with respect to:

 - (1) Any "occurrence" that takes place after you cease to occupy those premises; or

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- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such insured.
- h. Any state or political subdivision but only as respects legal liability incurred by the state or political subdivision solely because it has issued a permit with respect to operations performed by you or on your behalf.

However, no state or political subdivision is an insured with respect to:

- (1) "Bodily injury", "property damage", and "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard."
- i. Any person or organization who is the lessor of equipment leased to you, but only with respect to their liability arising out of the maintenance, operation or use by you of such equipment.

However, no such person or organization is an insured with respect to:

- (1) Any "occurrence" which takes place after the equipment lease expires; or
- (2) "Bodily injury" or "property damage" arising out of the sole negligence of that person or organization.
- j. Any architect, engineer, or surveyor engaged by you but only with respect to liability arising out of your premises or "your work."

However, no architect, engineer, or surveyor is an insured with respect to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- (1) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specification; or
- (2) Supervisory, inspection, or engineering services.
- k. Any manager, owner, lessor, mortgagee, assignee or receiver of premises, including land leased to you, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises or land leased to you.

However, no such person or organization is an insured with respect to:

- (1) Any "occurrence" which takes place after you cease to occupy that premises, or cease to lease the land; or
- (2) Structural alteration, new construction or demolition operations performed by or on behalf of that person or organization.
- 3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no such person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

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- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
- 4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization;
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- 5. Any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, is an insured but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

However, no such person or organization is an insured with respect to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement.
- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in "your product" made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of "your products";
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of "your product";
- g. "Your products" which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.

This insurance does not apply to any insured person or organization, from whom you have acquired "your products", or any ingredient, part of container, entering into, accompanying or containing "your products".

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

9. INCIDENTAL MALPRACTICE LIABILITY

- A. Under **WHO IS AN INSURED** (Section II), paragraph 2.a. (1) (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide medical or paramedical services.

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B. This provision 9. does not apply:

1. If you are engaged in the business or occupation of providing any services referred to in A. above.
2. If the employee has any other insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

Under **SECTION III - LIMITS OF INSURANCE**, provisions 10. and 11. of this endorsement amend the policy as follows:

10. AGGREGATE LIMITS PER PROJECT

The General Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you.

11. INCREASED MEDICAL PAYMENTS

- A. Paragraph 7., the Medical Expense Limit is subject to all the terms of **LIMITS OF INSURANCE** (Section III) and is the higher of:
1. \$10,000; or
 2. The amount shown in the Declarations for Medical Expense Limit.
- B. This provision 11. does not apply if **Coverage C. MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Form or by endorsement.

12. LEGAL LIABILITY (SPECIFIC PERILS)

- A. The word fire is changed to "specific perils" where it appears in:
1. The last paragraph of (Section I), **COVERAGE A.2. Exclusions**.
 2. **SECTION IV**, ITEM 4.b. of the **Other Insurance** condition;
- B. The limit of insurance shown in the Declarations will apply to all damage proximately caused by the same event, whether such damage results from a "specific peril" or any combination of "specific perils."
- C. The Damage To Premises Rented To You Limit in ITEM 6., **LIMITS OF INSURANCE** (Section III), is replaced by a new limit which is the higher of:
- (1) \$300,000; or
 - (2) the amount shown in the Declarations for Damage To Premises Rented To You Limit.
- D. This provision 12. does not apply if the Damage To Premises Rented To You Liability of **COVERAGE A** (Section I) is excluded either by the provisions of the Coverage Form or by endorsement.

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, provisions 13. through 16. of this endorsement amend the policy as follows:

13. KNOWLEDGE OF OCCURRENCE

ITEM 2. - **Duties In The Event Of Occurrence, Offense, Claim, Or Suit** - item a. is deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. Knowledge of an "occurrence" or an offense by your employees shall not, in itself, constitute knowledge to you unless your partners, members, executive officers, directors, or managers shall have knowledge of the "occurrence" or offense. To the extent possible, notice should include:

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- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

14. EXCESS INSURANCE PROVISION

Under **4. Other insurance.**, paragraph **b. (3)** is added as follows:

- (3) That is valid and collectible insurance available to you as an additional insured under a policy issued to:
 - (a) a contractor performing work for you;
 - (b) a tenant renting or leasing land or premises from you;
 - (c) a lessee of equipment owned by you; or
 - (d) the operator of an oil or gas lease in which you have a nonoperating working interest.

15. KNOWLEDGE OF HAZARDS

Item **6. - Representations** is deleted and replaced with the following:

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Any knowledge of an error or omission in the description of, or failure to completely describe any premises or operations intended to be covered by the Coverage Form will not invalidate or affect coverage for those premises or operations. You must report such error or omission to us as soon as practicable after its discovery. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

16. WAIVER OF SUBROGATION

Item **8. - Transfer of Rights Of Recovery Against Others To Us** - is deleted and replaced with the following:

8. If the insured has rights to recover all or part of any payment we have made under this Coverage Form, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. However, if the insured has waived rights to recover through a written contract, or if "your work" was commenced under a letter of intent or work order, subject to a subsequent reduction to writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Form.

17. MOBILE EQUIPMENT REDEFINED

Under **SECTION V - DEFINITIONS**, item **12.**, "mobile equipment", paragraph **F(1) (a)(b)(c)** does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

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18. DEFINITIONS

SECTION V - DEFINITIONS is amended to add the following definitions:

1. "Specific Perils" means fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; weight of snow, ice or sleet; or "water damage."
2. "Water damage" means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.
3. "Work contract" means a written agreement between you and one or more parties into which you enter for work to be performed by you or on your behalf.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - LEAD POISONING OR CONTAMINATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

All other terms, provisions, exclusions, and limitations of the policy apply except as specifically stated below.

1. Under **A. COVERAGES**, Item **2. Exclusions** is amended by the addition of the following:

Lead Poisoning or Contamination

This insurance does not apply to:

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened ingestion, inhalation, absorption, dispersal or escape of lead in any form.
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of lead; or
 - (b) Claim or suit by or on behalf of any person, organization or governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of lead.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

- (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or

- (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

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"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";
- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or

uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.



**AMERISURE MUTUAL INSURANCE COMPANY
AMERISURE INSURANCE COMPANY**

NOTICE TO POLICYHOLDERS

We have adopted revisions to our standard Commercial General Liability program. The changes are outlined in the "Notice to Policyholders Broadenings, Restrictions and Clarifications of Coverage" prepared by ISO Properties, AN 10 66 04 02.

Amerisure Mutual Insurance Company and Amerisure Insurance Company have developed certain coverage forms, which are duplicated by forms developed by ISO Properties. We will not adopt the ISO Properties versions of:

CG 04 35 10 01 Employee Benefits Liability Coverage Endorsement
CG 04 36 10 01 Limited Product Withdrawal Expense Endorsement
CG 27 15 10 01 Extended Reporting Period Endorsement for Employee Benefits
Liability Coverage

Our adoption of a particular form does not imply that we are willing to provide the coverage.

AN 10 69 04 02

NOTICE TO POLICYHOLDERS

BROADENINGS, RESTRICTIONS AND CLARIFICATIONS OF COVERAGE

GL-2000-OMF00

This notice has been prepared in conjunction with the implementation of changes to your policy. It contains a brief synopsis of the significant broadenings, restrictions and clarifications of coverage that were made in each policy form and endorsement. This notice does not reference every editorial change made in these forms and endorsements.

Please read your policy, and the endorsements attached to your policy, carefully.

INTERNET LIABILITY

Internet Liability has been listed separately because the changes in these coverage forms result in broadening in coverage in certain respects and may, in certain states, result in a decrease in other respects. The impact of the changes in the revision are very difficult to quantify and may differ in different states.

BROADENINGS OF COVERAGE

CG 00 01 10 01-- Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01-- Commercial General Liability Coverage Form (Claims-Made Version)

- In CG 00 01 and CG 00 02 policies the definition of "coverage territory" is being expanded to include personal and advertising injury offenses that take place via the Internet or other electronic means of communication, limited to some extent by the location where the suit is filed.

RESTRICTIONS IN COVERAGE

CG 00 01 10 01 – Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01 – Commercial General Liability Coverage Form (Claims-Made Version)

CG 00 09 10 01 Owners And Contractors Protective Liability Coverage Form

CG 00 37 10 01 Products/Completed Operations Liability Coverage Form (Occurrence Version)

CG 00 38 10 01 Products/Completed Operations Liability Coverage Form (Claims-Made Version)

CG 00 39 10 01 Pollution Liability Coverage Form (Designated Sites)

CG 00 40 10 01 Pollution Liability Limited Coverage Form (Designated Sites)

CG 00 42 10 01 Underground Storage Tank Policy (Designated Tanks)

- In most states, the question of whether electronic data is tangible has not been finally decided by the courts in the context of the prior policy language. In jurisdictions where such data is ruled not to be tangible property under prior forms, this change amounts to a reinforcement of current intent. We do not consider electronic data to be tangible, and therefore, do not consider damage to such data to be "property damage." However, to some, this change may be considered a decrease in coverage, if such property is held to be tangible under prior forms. For that reason, out of caution, we are listing it as a decrease. Also, the description of electronic data was added.

CG 00 01 10 01 – Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01 – Commercial General Liability Coverage Form (Claims-Made Version)

- These policies have been revised to exclude coverage for "personal and advertising injury" for web-site designers, Internet access and service providers (with an exception for mere placing of links, frames or borders) and electronic chatrooms or bulletin boards.

CLARIFICATIONS IN COVERAGE

CG 00 01 10 01– Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01– Commercial General Liability Coverage Form (Claims-Made Version)

- These policies have been clarified with respect to the definition of "personal and advertising injury" offenses such as slander, libel and invasion of privacy by specifically applying the word "publication" to include all types of publication, including those that are electronic.
- These policies have been clarified with respect to the definition of "advertisement" to include notices that are published via the Internet and other forms of electronic communication. Also a statement was included in the definition specifying that the definition applies to advertising material only, when other material, as well as advertising, is put forth on a web-site.
- An exclusion was added to these policies to specifically reference the intellectual property rights of copyright, patent, trademark or trade secret. However, there is an exception to this exclusion for personal and advertising injury offenses of copyright, trade dress or slogan in an "advertisement"

BROADENINGS OF COVERAGE - COVERAGE FORMS

CG 00 01 10 01-- Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01-- Commercial General Liability Coverage Form (Claims-Made Version)

- The Criminal Acts exclusion in these coverage forms is changed to permit coverage for the vicarious liability of other insureds who have no knowledge of a criminal act.
- Section II - Who Is An Insured in these coverage forms is broadened to include trusts as Named Insureds when designated in the policy Declarations.
- Section II - Who Is An Insured in these coverage forms is broadened to automatically include "volunteer workers" as insureds, but only while performing duties related to the conduct of the insured's business.

BROADENINGS OF COVERAGE - MULTISTATE ENDORSEMENTS

CG 04 35 10 01 -- Employee Benefits Liability Coverage Endorsement

- This new endorsement, when attached to the Commercial General Liability policy, broadens coverage to include certain damages the insured becomes legally obligated to pay because of acts, errors or omissions negligently committed in the administration of an employee benefit program.

CG 04 36 10 01 -- Limited Product Withdrawal Expense Endorsement

- When attached to the Commercial General Liability or Products/Completed Operations Liability Coverage Forms, this new endorsement provides reimbursement for certain expenses incurred because of a product withdrawal due to a recall or tampering.

CG 20 37 10 01 -- Additional Insured - Owners, Lessees Or Contractors - Completed Operations

- This endorsement provides a broadening of coverage by explicitly providing completed operations coverage for a specified additional insured.

CG 22 62 10 01 Underground Resources And Equipment Coverage

- This endorsement provides a broadening of coverage by adding an exception to the "damage to property" exclusion with respect to the care, custody or control provision. Coverage will be provided for such liability arising out of property damage included in the "underground resources hazard" for those oil or gas producing or servicing classes of risks otherwise excluded by CG 22 57 Exclusion - Underground Resources And Equipment Endorsement.

CG 22 96 10 01 -- Limited Exclusion - Personal And Advertising Injury - Lawyers

- This endorsement provides coverage for personal and advertising injury liability for lawyers when they perform activities that fall outside of a lawyer's professional services.

CG 22 97 10 01 Druggists - Broadened Coverage

- The endorsement CG 22 97, is introduced for use in the states that permit broader pharmacists duties and responsibilities.

CG 24 22 10 01 Amendment Of Coverage Territory - Worldwide Coverage

- When this endorsement is attached to a policy, the coverage is provided for offenses and occurrences anywhere in the world, subject to the limitation on where the suit is filed.

CG 24 23 10 01 Amendment Of Coverage Territory - Additional Scheduled Countries

- When this endorsement is attached to a policy, coverage is broadened beyond the standard coverage territory (US including its territories and possessions, Canada and Puerto Rico), to include any other country that will be specified in the Schedule subject to the limitation on where the suit is filed.

CG 24 24 10 01 Amendment Of Coverage Territory - Worldwide Coverage With Specified Exceptions

- When this endorsement is attached to a policy, coverage is broadened to anywhere in the world, subject to the limitation on where the suit is filed, with the exception of those countries that will be listed in the Schedule.

CG 27 15 10 01 Extended Reporting Period Endorsement For Employee Benefits Liability Coverage

- This endorsement is available for purchase when canceling or non-renewing Employee Benefits Liability coverage and provides an extended period of five years during which a claim may be made by the insured.

CG 28 05 10 01 Personal Injury Liability Endorsement

- This endorsement provides broadening in coverage over its prior provisions, as there will now be coverage for vicarious liability of other insureds who have no knowledge of a criminal act.

CG 31 15 10 01 Construction Project Management Protective Liability Coverage

- When attached to an OCP policy, this new endorsement provides vicarious liability to the owner, contractor, architect or engineer or construction manager arising out of the work of the named insured contractor with an exception for professional services. Also, employees of the Named Insured will be covered for acts or omissions in connection with the general supervision of the contractor's operations.

CLARIFICATIONS IN COVERAGE AND OTHER EDITORIAL REVISIONS -- COVERAGE FORMS

All General Liability coverage forms contain minor editorial revisions to provide for consistency among policies. In addition, these coverage forms have been revised to incorporate other various revisions in order to clarify coverage. Those latter changes to each individual coverage form are described below:

CG 00 33 10 01 Liquor Liability Coverage Form (Occurrence Version)
CG 00 34 10 01 Liquor Liability Coverage Form (Claims-Made Version)
CG 00 37 10 01 Products/Completed Operations Liability Coverage Form (Occurrence Version)
CG 00 38 10 01 Products/Completed Operations Liability Coverage Form (Claims-Made Version)

- These policies are revised to clarify that international waters or airspace are included under "coverage territory" but only if an "injury" occurs in the course of travel or transportation between any two of the following: US (including its territories and possessions), Puerto Rico and Canada.

CG 00 01 10 01-- Commercial General Liability Coverage Form (Occurrence Version)
CG 00 09 10 01 Owners And Contractors Protective Liability Coverage Form
CG 00 33 10 01 Liquor Liability Coverage Form (Occurrence Version)
CG 00 37 10 01 Products/Completed Operations Liability Coverage Form (Occurrence Version)

- These policies have been revised to incorporate the "known loss" provision directly into the Insuring Agreement. We are not introducing the known loss language in CG 00 35.

CG 00 35 10 01 Railroad Protective Liability Coverage Form

- We are not incorporating the "known loss" provision into the Railroad Protective Liability Policy because railroad employees are covered under the application of Federal Employers Liability Act.

CG 00 01 10 01-- Commercial General Liability Coverage Form (Occurrence Version)
CG 00 02 10 01-- Commercial General Liability Coverage Form (Claims-Made Version)
CG 00 09 10 01 Owners And Contractors Protective Liability Coverage Form
CG 00 33 10 01 Liquor Liability Coverage Form (Occurrence Version)
CG 00 34 10 01 Liquor Liability Coverage Form (Claims-Made Version)
CG 00 35 10 01 Railroad Protective Liability Coverage Form
CG 00 37 10 01 Products/Completed Operations Liability Coverage Form (Occurrence Version)
CG 00 38 10 01 Products/Completed Operations Liability Coverage Form (Claims-Made Version)

CG 00 39 10 01 Pollution Liability Coverage Form (Designated Sites)
CG 00 40 10 01 Pollution Liability Limited Coverage Form (Designated Sites)
CG 00 42 10 01 Underground Storage Tank Policy (Designated Sites)

- We are revising the Legal Action Against Us Condition in these policies to remove the phrase "obtained after an actual trial", as the definition of "suit" allows damages to be awarded through an arbitration or other alternative dispute resolution, so the judgment can be obtained without an actual trial.

CG 00 01 10 01 -- Commercial General Liability Coverage Form (Occurrence Version)
CG 00 02 10 01 -- Commercial General Liability Coverage Form (Claims-Made Version)

- The Aircraft, Auto Or Watercraft exclusion in these policies is being revised to clarify the intent of this exclusion to apply even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured.

CG 00 35 10 01 -- Railroad Protective Liability Coverage Form

- The Pollution exclusion in this coverage form is revised to clarify that coverage is not excluded for the insured whose liability arises out of the escape of fuels or lubricants from equipment used by contractors at their job site in connection with operations performed by such contractors.

CLARIFICATIONS IN COVERAGE AND OTHER EDITORIAL REVISIONS -- ENDORSEMENTS

CG 20 10 10 01 Additional Insured - Owners Lessees Or Contractors - Scheduled Person Or Organization

CG 20 33 10 01 Additional Insured - Owners Lessees Or Contractors - Automatic Status When Required In Construction Agreement With You

- We are revising these endorsements to clarify that completed operations coverage for an additional insured is excluded.

CG 20 22 10 01 Additional Insured - Church Members, Officers And Volunteer Workers

- We are revising CG 20 22 to delete the reference to volunteer workers since the provisions relating to volunteer workers have been incorporated into the CGL. This doesn't decrease coverage because of the fact that, in the prior edition of the coverage form, coverage for volunteer workers was excluded.

CG 20 35 Additional Insured - Grantor Of Licenses - Automatic Status When Required By Licensor

CG 20 36 Additional Insured - Grantor Of Licenses

- These new endorsements will add a person or organization who grants licenses as an additional insured to the policy of a person or organization who makes and distributes products of that person or organization. CG 20 35 provides automatic status as an additional insured of grantors of licenses. CG 20 36 requires that the grantor of the license be named in the Schedule of the endorsement.

CG 21 37 10 01 Exclusion - Employees And Volunteer Workers As Insured (formerly Exclusion - Employees As Insureds)

- We are revising this endorsement to clarify that volunteer workers as well as employees are excluded as insureds.

CG 21 37 10 01 Exclusion - Employees And Volunteer Workers As Insureds

CG 22 71 10 01 Colleges Or Schools (Limited Form)

CG 22 72 10 01 Colleges Or Schools

- The Aircraft, Auto Or Watercraft exclusion in these policies is being revised to clarify that this exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured.

RESTRICTIONS IN COVERAGE -- COVERAGE FORMS

CG 00 42 10 01 Underground Storage Tank Policy Designated Tanks

- This policy is revised to exclude coverage for corrective action costs due to willful noncompliance with any statute, law, or ordinance for corrective action measures in the event of an underground storage tank incident.

CG 00 01 10 01 -- Commercial General Liability Coverage Form (Occurrence Version)

CG 00 02 10 01 -- Commercial General Liability Coverage Form (Claims-Made Version)

CG 00 09 10 01 Owners And Contractors Protective Liability Coverage Form

CG 00 37 10 01 Products/Completed Operations Liability Coverage Form (Occurrence Version)

CG 00 38 10 01 Products/Completed Operations Liability Coverage Form (Claims-Made Version)

CG 00 39 10 01 Pollution Liability Coverage Form (Designated Sites)

CG 00 40 10 01 Pollution Liability Limited Coverage Form (Designated Sites)

CG 00 42 10 01 Underground Storage Tank Policy (Designated Tanks)

- The Damage To Property exclusion in these policies is revised to clarify that expenses incurred for repairs, etc. made on the insured's own property for any reason, including to avoid injury to a third party, will not be covered.

RESTRICTIONS IN COVERAGE -- ENDORSEMENTS

CG 21 66 10 01 Exclusion -- Volunteer Workers

- When this endorsement is attached to a CGL, coverage is restricted by excluding volunteer workers as insureds from a CGL policy.

CG 22 69 10 01 Druggists

- We are revising CG 22 69 to clarify that the types of pharmacist services that are not within the traditional duties of pharmacists like writing prescriptions, administering drugs and vaccinations, and performing blood tests are excluded.

CG 22 94 10 01 Exclusion -- Damage To Work Performed By Subcontractors On Your Behalf

CG 22 95 10 01 Exclusion -- Damage To Work Performed By Subcontractors On Your Behalf -- Designated Sites Or Operations

- When these new endorsements are attached to a CGL, coverage is restricted by excluding defects in "your work" from a CGL policy, even for work performed by a subcontractor.

CG 22 98 10 01 Exclusion - Internet Service Providers And Internet Access Providers Errors And Omissions

CG 22 99 10 01 Professional Liability Exclusion - Web-Site Designers

- These endorsements are introduced to exclude coverage for injury or damage arising out of the rendering or failure to render Internet service, Internet access, web-site designer or consultant services, as these professional services are not contemplated in the CGL coverage form.

CG 28 12 10 01 Pesticide Or Herbicide Applicator Coverage

- This endorsement is being revised to apply the exception to the exclusion to only paragraph 1(d) of exclusion j., so that the scope of coverage for pesticide or herbicide applicator should be the same under OCP policy as it is under the CGL policy.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES**COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible; or
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**
- "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".
- This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.
- This exclusion does not apply to:
- (1) A watercraft while ashore on premises you own or rent;
 - (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
 - (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
 - (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
 - (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily

occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance ; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first

publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you

or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while taking part in athletics.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

h. War

Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
 - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or

- c. Persons or organizations making claims or bringing "suits".
 2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.
 3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
 4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
 5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
 6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
 7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.
- The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of in-

insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication
 provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
 if such property can be restored to use by:
 - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.
9. "Insured contract" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a

third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
11. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
 - f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occu-

pies, committed by or on behalf of its owner, landlord or lessor;

- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or

- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.

- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or

- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

- a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;

- (b) Others trading under your name; or

- (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 22. "Your work":**
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
 - (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL PACKAGE POLICY POLICY CHANGES

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED BELOW:

POLICY NUMBER GL 1322355030002	POLICY CHANGES Effective 09/30/2002	POLICY PERIOD From 09/30/2002 To 09/30/2003	COMPANY AMERISURE INSURANCE							
Direct Bill No:		Account No: 11154421								
NAMED INSURED AND MAILING ADDRESS LOWDER CONSTRUCTION COMPANY, INC. 2000 INTERSTATE PARK DRIVE MONTGOMERY, AL 36109		PRODUCER COLONIAL INS AGENCY, INC. P O BOX 231449 MONTGOMERY, AL 36123 PRODUCER CODE: 835476-130	COVERAGE PARTS AFFECTED: <input type="checkbox"/> COMMERCIAL PROPERTY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL CRIME <input type="checkbox"/> COMMERCIAL INLAND MARINE							
CHANGES										
AMEND GENERAL LIABILITY EXPOSURES AS INDICATED.										
COMMERCIAL PROPERTY COVERAGE PART										
COVERAGE DESCRIPTION	PREM NO.	BLDG NO.	AMOUNT OF INSURANCE		ANNUAL PREMIUMS		<input type="checkbox"/> ADD'L. <input type="checkbox"/> RETURN			
			PREVIOUS	NEW	PREVIOUS	NEW				
If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include REMOVAL that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value PERMIT at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change, after that, this insurance does not apply at the previous location.										
COMMERCIAL GENERAL LIABILITY COVERAGE PART										
<input type="checkbox"/> AMENDING LIMITS OF INSURANCE TO: <input type="checkbox"/> GENERAL AGGREGATE (OTHER THAN PRODUCTS-COMPLETED OPERATIONS) <input type="checkbox"/> PRODUCTS-COMPLETED OPERATIONS AGGREGATE				<input type="checkbox"/> PERSONAL AND ADVERTISING INJURY <input type="checkbox"/> EACH OCCURRENCE <input type="checkbox"/> FIRE DAMAGE PREMIUM <input type="checkbox"/> ADJUSTED BY AUDIT CHANGE: <input type="checkbox"/> ADJUSTED BY MONTHLY OR QUARTERLY REPORT						
DESCRIPTIONS, CODES, EXPOSURES, RATES, PREMIUMS--ADDED, DELETED OR CHANGED AS INDICATED BY AN "X"										
A	D	C	DESCRIPTION	CODE	PREMIUM BASIS	RATES		ADVANCE PREMIUM		<input type="checkbox"/> ADD'L. <input checked="" type="checkbox"/> RETURN
						PREM./ OPER.	PROD./ COMP.OPS	PREM./ OPERATIONS	PROD./ COMP.OPS	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CONTRACTING-MED-COMP	15250	26,875,000	1.134	INCL	30,476	44,368	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	NOC &/OR A-RATE MED COMP	98550	1,150,000	66.953	INCL	76,996	15,963	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
					PREVIOUS ANNUAL PREMIUM	NEW ANNUAL PREMIUM			<input type="checkbox"/> ADD'L. <input type="checkbox"/> RETURN	
<input type="checkbox"/> COMMERCIAL CRIME COVERAGE PART										
<input type="checkbox"/> COMMERCIAL INLAND MARINE COVERAGE PART										
						ADDITIONAL		RETURN		
TOTAL PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE								60,331		
TAX										
TOTAL								60,331		

Policy Change No. 1

Date of Issue 04/22/2003

A-3181 (2-89)

Authorized Representative Signature

“EXHIBIT 2”

12/03/2003 11:31 AMERISURE → CORP CONSULTANT

NO. 584 0002

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA
CIVIL DIVISION

COLONIAL REALTY LIMITED
PARTNERSHIP d/b/a COLONIAL
PROPERTIES REALTY LIMITED
PARTNERSHIP,

Plaintiff,

v.

LOWDER CONSTRUCTION COMPANY,
INC., a foreign corporation, and CHARLAN,
BROCK & ASSOCIATES, INC., a Florida
corporation,

Defendants.

Case No. 03 CA 10424

Division

REC'D DEC 01 2003

FILED
DATE: 11/26/03
SERVED BY: [Signature]

SUMMONS

THE STATE OF FLORIDA:
TO EACH SHERIFF OF THE STATE:

YOU ARE COMMANDED to serve this summons and a copy of the complaint in this action on the defendant:

LOWDER CONSTRUCTION COMPANY, INC.
CFRA, LLC
c/o Carlton Fields, Registered Agent
One Harbour Place, 777 S. Harbour Island Blvd.
Tampa, Florida 33602-5730

Each defendant is required to serve written defenses to the complaint on plaintiff's attorney, whose name and address is:

Neal A. Sivy, Esq.
SIVYER, BARLOW & WATSON, P.A.
100 South Ashley Drive, Suite 2150
Tampa, Florida 33602

within 20 days after service of this summons upon that defendant, exclusive of the day of service, and to file the original of the written defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint.

Dated: November 10, 2003.

LYDIA GARDNER
As Clerk of the Court

By: [Signature]
Deputy Clerk

12/03/2003 11:31 AMERISURE → CORP CONSULTANT

NO.584 0003

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA
CIVIL DIVISION

COLONIAL REALTY LIMITED
PARTNERSHIP d/b/a COLONIAL
PROPERTIES REALTY LIMITED
PARTNERSHIP,

Plaintiff,

Case No. 03CA 10424

Division

v.

LOWDER CONSTRUCTION COMPANY,
INC., a foreign corporation, and CHARLAN,
BROCK & ASSOCIATES, INC., a Florida
corporation,

Defendants.

COMPLAINT

Plaintiff, COLONIAL REALTY LIMITED PARTNERSHIP d/b/a COLONIAL PROPERTIES REALTY LIMITED PARTNERSHIP ("Colonial"), by and through its undersigned counsel, hereby sues Defendants, LOWDER CONSTRUCTION COMPANY, INC., a foreign corporation ("Lowder"), and CHARLAN, BROCK & ASSOCIATES, INC., a Florida corporation ("Charlan"), and alleges as follows: —

GENERAL ALLEGATIONS

1. Colonial is a Delaware limited partnership, authorized to do business in the state of Florida.
2. Defendant Lowder is an Alabama corporation, authorized to do business in the state of Florida.

12/03/2003

11:31

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NO. 584

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3. Defendant Charlan is a Florida corporation, with its principal place of business in Maitland, Orange County, Florida.

4. This is an action for damages in excess of \$15,000.00, exclusive of interest, costs and attorneys' fees.

5. Venue is proper in this Court because Charlan's principal place of business is located in Orange County, Florida, and two of the projects were built in Orange County, Florida.

6. On or about July 9, 1997, Colonial executed a construction management contract (the "Cypress Crossing Contract") with Lowder for the construction of a 250-unit apartment complex known as Cypress Crossing located in Orlando, Florida (the "Cypress Crossing Project"). A true and correct copy of the Cypress Crossing Contract is attached hereto as Exhibit "A" and incorporated herein by reference. ✓

7. On or about June 10, 1998, Colonial executed a construction management contract (the "Hunter's Creek Contract") with Lowder for the construction of a 448-unit apartment complex known as Colonial Village at Hunter's Creek d/b/a Heather Glen located in Orlando, Florida (the "Hunter's Creek Project"). A true and correct copy of the Hunter's Creek Contract is attached hereto as Exhibit "B" and incorporated herein by reference. ✓

8. On or about June 14, 1999, Colonial executed a construction management contract (the "Liberty Park Contract") with Lowder for the construction of a 300-unit apartment complex known as Colonial Grand at Liberty Park located in Vestavia, Alabama (the "Liberty Park Project"). A true and correct copy of the Liberty Park Contract is attached hereto as Exhibit "C" and incorporated herein by reference. ✓

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NO. 584 0005

9. On or about December 23, 1996, Lowder entered into a contract with Charlan (the Cypress Crossing Architectural Contract") for the design and development of the Cypress Crossing Project.

10. On or about January 14, 1998, Lowder entered into a contract with Charlan (the Hunter's Creek Architectural Contract") for the design and development of the Hunter's Creek Project.

11. On or about September 9, 1998, Colonial executed a contract with Charlan (the "Liberty Park Architectural Contract") for the design and development of the Liberty Park Project. A true and correct copy of the Liberty Park Architectural Contract is attached hereto as Exhibit "D" and incorporated herein by reference.

COUNT I

(Breach of Contract Against Lowder – Cypress Crossing)

12. Colonial realleges and incorporates paragraphs 1-6 and 10 above as if fully set forth herein.

13. Lowder has breached the Cypress Crossing Contract through its failure to properly manage the construction of the Cypress Crossing Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, ~~which has allowed water intrusion in the building envelope~~). ~~These problems were latent and were first discovered in the summer of 2003.~~

14. As a direct and proximate result of Lowder's breach of the Cypress Crossing Contract, Colonial has suffered damages, which include but are not limited to the cost to correct

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NO. 584 0006

the defective work, expert fees, the cost to complete incomplete work, additional interest expense, and business losses.

WHEREFORE, Colonial seeks judgment against Lowder for recovery of its damages, reasonably incurred attorneys' fees, and for such other and further relief as this Court deems just and proper.

COUNT II
(Breach of Contract Against Lowder – Hunter's Creek)

15. Colonial realleges and incorporates paragraphs 1-5, 7, and 10 above as if fully set forth herein.

16. Lowder has breached the Hunter's Creek Contract through its failure to properly manage the construction of the Hunter's Creek Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, which has allowed water intrusion in the building envelope). These problems were latent and were first discovered in the summer of 2003.

17. As a direct and proximate result of Lowder's breach of the Hunter's Creek Contract, Colonial has suffered damages, which include but are not limited to the cost to correct the defective work, expert fees, the cost to complete incomplete work, additional interest expense, and business losses.

WHEREFORE, Colonial seeks judgment against Lowder for recovery of its damages, reasonably incurred attorneys' fees, and for such other and further relief as this Court deems just and proper.

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NO. 584 0007

COUNT III

(Breach of Contract Against Lowder – Liberty Park)

18. Colonial realleges and incorporates paragraphs 1-5 and 8 above as if fully set forth herein.

19. Lowder has breached the Liberty Park Contract through its failure to properly manage the construction of the Liberty Park Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, which has allowed water intrusion in the building envelope). These problems were latent and were first discovered in the summer of 2003.

20. As a direct and proximate result of Lowder's breach of the Liberty Park Contract, Colonial has suffered damages, which include but are not limited to the cost to correct the defective work, expert fees, the cost to complete incomplete work, additional interest expense, and business losses.

WHEREFORE, Colonial seeks judgment against Lowder for recovery of its damages, reasonably incurred attorneys' fees, and for such other and further relief as this Court deems just and proper.

COUNT IV

(Breach of Contract Against Charlan – Liberty Park)

21. Colonial realleges and incorporates paragraphs 1-5 and 11 above as if fully set forth herein.

22. Charlan has breached the Liberty Park Architectural Contract through its failure to properly design the plans and details for the construction of the Liberty Park Project, including

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NO. 584 0008

but not limited to its failure to provide adequate plans and drawings (including absence of flashing and lack of sealant for construction of balconies and columns for the breeze way areas, which has allowed water intrusion in the building envelope), and by failing to insure that the work was constructed in accordance with the plans and specifications. ~~These problems were latent and were first discovered in the summer of 2003.~~

23. As a direct and proximate result of Charlan's breach of the Liberty Park Architectural Contract, Colonial has suffered damages, which include but are not limited to the cost to correct the defective work, expert fees, the cost to complete incomplete work, additional interest expense, and business losses.

WHEREFORE, Colonial seeks judgment against Charlan for recovery of its damages, reasonably incurred attorneys' fees, and for such other and further relief as this Court deems just and proper.

COUNT V
(Negligence Against Lowder – Cypress Crossing)

24. This is an action for damages in excess of \$15,000.00, exclusive of interest and costs.

25. Colonial realleges and incorporates paragraphs 1-6 and 10 above as if fully set forth herein.

26. As the construction manager on the Cypress Crossing Project, Lowder owed a special duty of care to perform its professional services with reasonable care.

27. Lowder negligently breached its duty of reasonable care by failing to properly manage the construction of the Cypress Crossing Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built

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NO. 584 0009

in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, which has allowed water intrusion in the building envelope). These problems were latent and were first discovered in the summer of 2003.

28. As a direct and proximate result of Lowder's negligent breaches of its duties owed to Colonial, Colonial has suffered damages. The negligence has caused damage to separate property, including within the apartment units adjacent to the balconies and columns in the breezeway areas.

WHEREFORE, Colonial seeks judgment against Lowder for damages, interest, costs, and for such other and further relief as this Court deems just and proper.

COUNT VI

(Negligence Against Lowder – Hunter's Creek)

29. This is an action for damages in excess of \$15,000.00, exclusive of interest and costs.

30. Colonial realleges and incorporates paragraphs 1-5, 7, and 10 above as if fully set forth herein.

31. As the construction manager on the Hunter's Creek Project, Lowder owed a special duty of care to perform its professional services with reasonable care.

32. Lowder negligently breached its duty of reasonable care by failing to properly manage the construction of the Hunter's Creek Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, which has allowed water intrusion in the

building envelope). These problems were latent and were first discovered in the summer of 2003.

33. As a direct and proximate result of Lowder's negligent breaches of its duties owed to Colonial, Colonial has suffered damages. The negligence has caused damage to separate property, including within the apartment units adjacent to the balconies and columns in the breezeway areas.

WHEREFORE, Colonial seeks judgment against Lowder for damages, interest, costs, and for such other and further relief as this Court deems just and proper.

COUNT VII
(Negligence Against Lowder - Liberty Park)

34. This is an action for damages in excess of \$15,000.00, exclusive of interest and costs.

35. Colonial realleges and incorporates paragraphs 1-5 and 8 above as if fully set forth herein.

36. As the construction manager on the Liberty Park Project, Lowder owed a special duty of care to perform its professional services with reasonable care.

37. Lowder negligently breached its duty of reasonable care by failing to properly manage the construction of the Liberty Park Project in strict accordance with the Contract documents, including but not limited to its failure to supervise work so that the Project was built in accordance with the plans (including but not limited to absence of flashing and lack of sealant in the balconies and columns for the breezeway areas, which has allowed water intrusion in the building envelope). These problems were latent and were first discovered in the summer of 2003.

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NO.584 D011

38. As a direct and proximate result of Lowder's negligent breaches of its duties owed to Colonial, Colonial has suffered damages. The negligence has caused damage to separate property, including within the apartment units adjacent to the balconies and columns in the breezeway areas.

WHEREFORE, Colonial seeks judgment against Lowder for damages, interest, costs, and for such other and further relief as this Court deems just and proper.

COUNT VIII
(Negligence Against Charlan - Liberty Park)

39. This is an action for damages in excess of \$15,000.00, exclusive of interest and costs.

40. Colonial realleges and incorporates paragraphs 1-5 and 8 above as if fully set forth herein.

41. As the architect on the Liberty Park Project, Charlan owed a special duty of care to perform its professional services with reasonable care.

42. Charlan negligently breached its duty of reasonable care by:

- a. failing to properly design the plans and details used for the Liberty Park Project, including but not limited to a lack of specific lapping details for flashing, membranes, and Styrofoam trim band. Moreover, a waterproof membrane beneath the overlying stucco was not specified. This has resulted in water intrusion in the breezeway walls.
- b. failing to ensure that the work was in accordance with the plans and specifications.

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NO. 584 0012

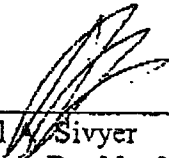
- c. failing to communicate all conditions affecting Lowder's work on the Liberty Park Project to Colonial.

These problems were latent and were first discovered in the summer of 2003.

43. As a direct and proximate result of Charlan's negligent breaches of its duties owed to Colonial, Colonial has suffered damages.

WHEREFORE, Colonial seeks judgment against Charlan for damages, interest, costs, and for such other and further relief as this Court deems just and proper.

DATED: November 7th 2003.



Neal A. Sivy
Florida Bar No. 373745
SIVYER BARLOW & WATSON, P.A.
100 South Ashley Drive, Suite 2150
Tampa, Florida 33602
Telephone: (813) 221-4242
Facsimile: (813) 227-8598
Attorneys for Plaintiff

12/23/2003 11:31 AMERISURE → CORP CONSULTANT NO.584 0013
 06/20/2003 09:25
 05/20/2003 08:19 AMER. RE 205 870 8768 → ST F 100 MS NO.996 0003
 06/22/2003 09:18 AMERISURE → BIRMINGHAM NO.461 0003
 06/09/2003 11:46; #208; Page 1/2
 Sent by: Colonial Insurance 3342706803; 05/09/2003 11:46; #208; Page 1/2

ACORD GENERAL LIABILITY NOTICE OF OCCURRENCE/CLAIM				OP/D	RS	DATE (MM/DD/YYYY)
PRODUCER	PHONE (A/C, No, Ext)	334-270-6824	NOTICE OF OCCURRENCE	DATE OF OCCURRENCE	05/01/03	DATE OF CLAIM
Colonial Insurance Agency Inc			NOTICE OF CLAIM	EFFECTIVE DATE	09/30/02	09/30/03
2000 Interstate Pk Dr Ste 100				EXPIRATION DATE	09/30/03	
Montgomery AL 36109				POLICY TYPE	<input checked="" type="checkbox"/> OCCURRENCE	<input type="checkbox"/> CLAIMS MADE
Colonial Company				COMPANY	AMERISURE	
CODE	SUB CODE			MISC CODE		
INSURANCE				POLICY NUMBER	GL1322355020002	
CUSTOMER ID: LOWDE-1				REFERENCE NUMBER		
INSURED				CONTACT	<input checked="" type="checkbox"/> CONTACT INSURED	
NAME AND ADDRESS	SOC SEC # OR PERM			NAME AND ADDRESS	Lowder Construction Co., Inc.	
Lowder Construction Co., Inc.				Mr. Ronnie Poole		
Mr. Ronnie Poole				2000 Interstate Park Dr.		
1000 Interstate Park Dr.				Montgomery AL 36109		
Montgomery AL 36109				RESIDENCE PHONE (A/C, No)	(334) 270-6513	
				BUSINESS PHONE (A/C, No, Ext)	334 270-6626	
RESIDENCE PHONE (A/C, No)	BUSINESS PHONE (A/C, No, Ext)	334 270-6626				
OCCURRENCE						
LOCATION OF OCCURRENCE (include city & state)	Heather Glen Apartments 13184 Heather Glen Drive Orlando FL 32837					
DESCRIPTION OF OCCURRENCE (Use appropriate sheet if necessary)	Water damage & mold has been found in several units due to water coming in from the landing/breakway. Owner is needing repairs done ASAP. Contact Ed Wright ASAP @ 205-205-250-8765					
POLICY INFORMATION						
COVERAGE PART OR FORMS (insert form #s and within detail)						
GENERAL AGGREGATE	PRODUCED OF AGG	PERS & ADV INJ	EACH OCCURRENCE	FIRE DAMAGE	MEDICAL EXPENSE	DEDUCTIBLE
2000000	2000000	1000000	1000000	100000	10000	500
UNRECOVERED EXCESS	UNRECOVERED	EXCESS CARRIER	LIMITS	AGGR	PER CLAIM/ACC	SIN
TYPE OF LIABILITY						
PREMISES: INSURED IS	OWNER	TENANT	OTHER			
OWNER'S NAME & ADDRESS (if not insured)						
PRODUCTS: INSURED IS	MANUFACTURER	VENDOR	OTHER			
MANUFACTURER'S NAME & ADDRESS (if not insured)						
WHERE CAN PRODUCT BE SEEN?						
OTHER LIABILITY INCLUDING COMPLETED OPERATIONS (Explain)						
INJURED/PROPERTY DAMAGED						
NAME & ADDRESS (Injured/Owner)						
AGE	SEX	OCCUPATION	EMPLOYER NAME & ADDRESS			
DESCRIBE INJURY						
FATALITY						
DESCRIBE PROPERTY (Type, Model, etc)						
WITNESSES						
NAME & ADDRESS						
BUSINESS PHONE (A/C, No, Ext)						
RESIDENCE PHONE (A/C, No, Ext)						
REMARKS						
REPORTED BY Insured	REPORTED TO Colonial Ins. Agency	SIGNATURE OF INSURED	SIGNATURE OF PRODUCER			
ACORD 3 (2002/04)						

NOTE: IMPORTANT STATE INFORMATION ON REVERSE SIDE

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